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Jet Electric Company, Inc. and James Andrew Jackson d/b/a Jet Electric, a Sole Proprietorship and Local Union 342 of the International Brotherhood of Electrical Workers, AFL-CIO. Case 11-CA-18395

August 23, 2005

SECOND SUPPLEMENTAL DECISION AND ORDER

BY CHAIRMAN BATTISTA AND MEMBERS LIEBMAN
AND SCHAUMBER

The Acting General Counsel seeks a default judgment in this case on the ground that the Respondent has failed to file an answer to the compliance specification.¹

On November 22, 2002, the Board issued a Supplemental Decision and Order² that, among other things, ordered the Respondent to make whole Rodney Booe, Stanley Grace, Jerry Loftis, Roger Stanley, Douglas Summers, Allen Craver, Gary Maurice, and Percival Millington for any loss of earnings and benefits they may have suffered as a result of the Respondent's unfair labor practices in violation of Section 8(a)(3) and (1) of the Act. On May 3, 2004, the United States Court of Appeals for the Fourth Circuit entered its Order enforcing the Board's Order.³

A controversy having arisen over the amounts of backpay due the discriminatees, on May 31, 2005, the Acting Regional Director issued a compliance specification and notice of hearing alleging the amounts due under the Board's Order. The compliance specification notified the Respondent that it should file an answer by June 21, 2005, complying with the Board's Rules and Regulations. Although properly served with a copy of the compliance specification, the Respondent failed to file an answer.

By certified letter dated June 22, 2005, the Regional Attorney advised the Respondent that no answer to the compliance specification had been received and that unless an answer was filed by June 29, 2005, a Motion for Summary Judgment would be filed. To date, the Respondent has not filed an answer.

On July 11, 2005, the Acting General Counsel filed with the Board a Motion for Default Judgment and a memorandum in support, with exhibits attached. On July 13, 2005, the Board issued an order transferring the pro-

ceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent did not file a response. The allegations in the motion and in the compliance specification are therefore undisputed.⁴

Ruling on the Motion for Default Judgment

Section 102.56(a) of the Board's Rules and Regulations provides that a respondent shall file an answer within 21 days from service of a compliance specification. Section 102.56(c) provides that if the respondent fails to file an answer to the specification within the time prescribed by this section, the Board may, either with or without taking evidence in support of the allegations of the specification and without further notice to the respondent, find the specification to be true and enter such order as may be appropriate.

According to the uncontroverted allegations of the Motion for Default Judgment, the Respondent, despite having been advised of the filing requirements, has failed to file an answer to the compliance specification. In the absence of good cause for the Respondent's failure to file an answer, we deem the allegations in the compliance specification to be admitted as true, and grant the Acting General Counsel's Motion for Default Judgment. Accordingly, we conclude that the net backpay due the discriminatees is as stated in the compliance specification and we will order the Respondent to pay those amounts to the discriminatees, plus interest accrued to the date of payment.

ORDER

The National Labor Relations Board orders that the Respondent, Jet Electric Company, Inc. and James Andrew Jackson d/b/a Jet Electric, A Sole Proprietorship, Winston-Salem, North Carolina, its officers, agents, successors, and assigns, shall make whole the individuals named below, by paying them the amounts following their names, plus interest accrued to the date of payment, as prescribed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987), minus tax withholdings required by Federal and State laws:

⁴ Chairman Battista and Member Schaumber did not participate in the original decision on the merits, or in the supplemental decision. They express no view as to whether they were correctly decided. However, as these matters have been finally adjudicated, and in the absence of an answer by the Respondent to the compliance specification, they agree with their colleague to the entry of this Second Supplemental Decision and Order.

¹ The Acting General Counsel's motion is titled a Motion for Summary Judgment. However, because the basis of the motion is the Respondent's failure to file an answer, we construe the motion as a motion for default judgment.

² 338 NLRB 650.

³ 03-1818.

Dated, Washington, D.C. August 23, 2005

Rodney Booe	\$ 948.50
Stanley Grace	0.00
Jerry Loftis	3,222.00
Roger Stanley	11,492.89
Douglas Summers	0.00
Allen Craver	1,144.00
Gary Maurice	16,490.00
Percival Millington	1,336.98

TOTAL BACKPAY: \$ 34,634.37

Robert J. Battista,	Chairman
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Wilma B. Liebman,	Member
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Peter C. Schaumber,	Member
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(SEAL) NATIONAL LABOR RELATIONS BOARD